



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: CCB - 176694

PRELIMINARY RECITALS

Pursuant to a petition filed on September 12, 2016, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Kenosha County Human Service Department regarding Child Care (CC), a hearing was held on November 29, 2016, by telephone.

The issue for determination is whether the agency correctly denied petitioner's application for child care benefits (CCB) because he failed to complete the interview process.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, WI 53703

By: [REDACTED], Fair Hearing Coordinator
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. Petitioner applied for CCB on August 25, 2016. The agency made two attempts that day to complete an interview with the petitioner but was unable to reach him.

3. The agency issued a Notice of Action and Proof Needed on August 26, 2016 to petitioner informing him that he needed to complete an interview for CCB by September 6, 2016 or his benefits would be denied.
4. Petitioner did not complete an interview for CCB by the due date.
5. On September 7, 2016 the agency issued a Notice of Eligibility of Child Care to petitioner stating that his application for CCB was denied because no interview was completed.

DISCUSSION

The Wisconsin Shares Child Care Subsidy Program is regulated under Wisconsin Statutes §49.155 and Wisconsin Administrative Code DCF Chapter 201. An applicant for CCB must meet the program's guidelines to be eligible for Wisconsin Shares child care assistance.

To begin the process of applying for CCB, an individual may call the local agency, may apply in person at the local agency, or may apply online through the ACCESS website. See *Wisconsin Shares Child Care Subsidy Policy Manual (Manual)*, §1.3.2, available online at <https://dcf.wisconsin.gov/files/wishares/pdf/policymanuals/chapter1/chapter1-05202016.pdf>. Petitioner applied online through ACCESS.

When an applicant applies for child care assistance through ACCESS, the agency must schedule the interactive interview to occur no later than five (5) business days after the receipt of the ACCESS application. *Manual* §1.3.2.3. The agency attempted twice to complete the interview with petitioner on the same day he applied, but the agency was unable to reach him. Thus, the next day, the agency issued the Notice of Action and Proof Needed to petitioner informing him that he needed to complete an interview for CCB by September 6, 2016 or his benefits would be denied. See *Manual* §§1.3.4 and 1.6.6. When the due date passed without a completed interview, the agency issued the Denial Notice. See *Manual* §1.6.7.

Petitioner did not dispute these facts, but rather admitted he was confused by the process and misread the Notice of Action. He was reminded at hearing that he was free to reapply. He is reminded here to review his notices carefully and to contact the agency with questions to avoid a cancellation or reduction of benefits in the future.

In sum, the agency acted correctly here under the law and policy for administering CCB. I add, assuming petitioner finds this decision unfair, that it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

CONCLUSIONS OF LAW

The agency correctly denied petitioner's application for child care benefits (CCB) because he failed to complete the interview process.

THEREFORE, it is

ORDERED

The petition for review herein is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of January, 2017

\s_____
Kelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 24, 2017.

Kenosha County Human Service Department
Child Care Benefits